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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/821,753	03/30/2001	Tuqiang Ni	2328-053	5171

7590 02/11/2004

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EXAMINER

ALEJANDRO MULERO, LUZ L

ART UNIT PAPER NUMBER

1763

DATE MAILED: 02/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/821,753	Applicant(s) NI ET AL.	
	Examiner Luz L. Alejandro	Art Unit 1763	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 November 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☒ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

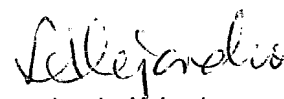
Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-13, 17-23, 25, 26, 28 and 29.

Claim(s) withdrawn from consideration: 14, 16, 24 and 27.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


Luz L. Alejandro
Primary Examiner
Art Unit: 1763

Continuation of 2. NOTE: the present amendment to claim 14 requires withdraw of the restriction requirement, thereby creating a new issue which would require further consideration.

Continuation of 5. does NOT place the application in condition for allowance because: regarding the rejection under 35 U.S.C 112- first paragraph, applicant argues that figs. 2-4 provide adequate support for the claim limitation; however the examiner respectfully disagrees because it is not sufficiently explained how the figures provide support for gradually changing the amount of AC power supplied to the plasma during processing of the workpiece while the power is in a steady state condition subsequent to power start up and prior to the beginning of power shut down. It not clear from the figures or applicant's argument how the AC power supplied is gradually changing in a pre-programmed basis during processing of the workpiece while the power is in a steady state condition.

Concerning the restriction requirement arguments, the present amendment to claim 14 requires withdraw of the restriction requirement, thereby creating a new issue which would require further consideration, for this reason the amendment after final will not be entered. Additionally, claims 24 and 27 belong to the non-elected group since both claims depend directly or indirectly on non-elected claim 14 and were inadvertently included in the rejections.

With respect to the declaration filed with the after final amendment, note that the declaration is not solely directed to issues raised in the final rejection. Therefore, the declaration will not be considered at this late stage of the prosecution. As a result, the arguments referring to the declaration have not been considered.

Regarding the arguments with respect to the Tsuchiya et al. reference, it should be noted that arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

With respect to applicant's argument of the pressure limitations of claims 2 and 18, it is noted that the claims as broadly claimed only require one of the species, the pressure or the flow rate to remain constant. If applicant wishes to claim that all three elements remain constant then the word -- and -- should be used instead of the word "or".